

---

By: **Senators Kelley, Britt, Colburn, Conway, Della, Giannetti, Gladden,  
Grosfeld, Hollinger, Hooper, Jacobs, Jones, Lawlah, Mooney, Stoltzfus,  
and Teitelbaum**

Introduced and read first time: January 13, 2003  
Assigned to: Education, Health, and Environmental Affairs

---

A BILL ENTITLED

1 AN ACT concerning

2 **Informal Kinship Care - Consent to Health Care on Behalf of a Child**

3 FOR the purpose of authorizing a relative providing informal kinship care to consent  
4 to health care on behalf of a child under certain circumstances; requiring a  
5 certain relative to file a certain affidavit at a local department of social services;  
6 requiring the affidavit to include certain information; establishing a form for the  
7 affidavit; requiring certain affidavit forms to be provided free of charge at  
8 certain offices; requiring a certain relative to provide certain notice to a local  
9 department of social services within a certain time period; requiring a certain  
10 relative to file a certain affidavit annually; authorizing certain relatives to apply  
11 for medical and public assistance entitlements for certain children; defining  
12 certain terms; and generally relating to informal kinship care and consenting to  
13 health care on behalf of a child.

14 BY adding to  
15 Article - Health - General  
16 Section 20-105  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2002 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Health - General**

22 20-105.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

25 (2) "INFORMAL KINSHIP CARE" MEANS A LIVING ARRANGEMENT IN  
26 WHICH A RELATIVE OF A CHILD, WHO IS NOT IN THE CARE, CUSTODY, OR

1 GUARDIANSHIP OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, PROVIDES FOR  
2 THE CARE AND CUSTODY OF THE CHILD DUE TO A SERIOUS FAMILY HARDSHIP.

3 (3) "RELATIVE" MEANS AN ADULT RELATED TO THE CHILD BY BLOOD OR  
4 MARRIAGE WITHIN THE FIFTH DEGREE OF CONSANGUINITY.

5 (4) "SERIOUS FAMILY HARDSHIP" MEANS:

6 (I) DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

7 (II) SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF THE  
8 CHILD;

9 (III) DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF THE  
10 CHILD;

11 (IV) INCARCERATION OF A PARENT OR LEGAL GUARDIAN OF THE  
12 CHILD;

13 (V) ABANDONMENT BY A PARENT OR LEGAL GUARDIAN OF THE  
14 CHILD; OR

15 (VI) ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN TO ACTIVE  
16 MILITARY DUTY.

17 (B) A RELATIVE PROVIDING INFORMAL KINSHIP CARE FOR A CHILD MAY  
18 CONSENT TO HEALTH CARE ON BEHALF OF THE CHILD IF:

19 (1) A COURT HAS NOT APPOINTED A GUARDIAN FOR THE CHILD OR  
20 AWARDED CUSTODY OF THE CHILD TO AN INDIVIDUAL OTHER THAN THE RELATIVE  
21 PROVIDING INFORMAL KINSHIP CARE; AND

22 (2) THE RELATIVE VERIFIES THE INFORMAL KINSHIP CARE  
23 RELATIONSHIP THROUGH A SWORN AFFIDAVIT THAT:

24 (I) MEETS THE REQUIREMENTS OF THIS SECTION; AND

25 (II) IS FILED WITH A LOCAL DEPARTMENT OF SOCIAL SERVICES.

26 (C) THE AFFIDAVIT SHALL INCLUDE:

27 (1) THE NAME AND DATE OF BIRTH OF THE CHILD;

28 (2) THE NAME AND ADDRESS OF THE CHILD'S PARENT OR LEGAL  
29 GUARDIAN;

30 (3) THE NAME AND ADDRESS OF THE RELATIVE PROVIDING INFORMAL  
31 KINSHIP CARE;

32 (4) THE DATE THE RELATIVE ASSUMED INFORMAL KINSHIP CARE;

1 (5) THE NATURE OF THE SERIOUS FAMILY HARDSHIP AND WHY IT  
2 RESULTED IN INFORMAL KINSHIP CARE; AND

3 (6) THE KINSHIP RELATION TO THE CHILD OF THE RELATIVE  
4 PROVIDING INFORMAL KINSHIP CARE.

5 (D) THE AFFIDAVIT SHALL BE IN THE FOLLOWING FORM:

6 (1) I, THE UNDERSIGNED, AM OVER EIGHTEEN (18) YEARS OF AGE AND  
7 COMPETENT TO TESTIFY TO THE FACTS AND MATTERS SET FORTH HEREIN.

8 (2) \_\_\_\_\_ (NAME OF CHILD), WHOSE DATE OF BIRTH IS  
9 \_\_\_\_\_, IS LIVING WITH ME BECAUSE OF THE FOLLOWING SERIOUS FAMILY  
10 HARDSHIP (CHECK EACH THAT IS APPLICABLE):

11 \_\_\_\_\_ DEATH OF FATHER/MOTHER/LEGAL GUARDIAN

12 \_\_\_\_\_ SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN

13 \_\_\_\_\_ DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN

14 \_\_\_\_\_ INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN

15 \_\_\_\_\_ ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN

16 \_\_\_\_\_ ASSIGNMENT OF FATHER/MOTHER/LEGAL GUARDIAN TO  
17 ACTIVE MILITARY DUTY

18 (3) THE NAME AND LAST KNOWN ADDRESS OF THE CHILD'S PARENT(S)  
19 OR LEGAL GUARDIAN IS:

20 \_\_\_\_\_

21 \_\_\_\_\_

22 \_\_\_\_\_

23 (4) MY KINSHIP RELATION TO THE CHILD IS \_\_\_\_\_

24 (5) MY ADDRESS IS:

25 \_\_\_\_\_  
26 STREET APT. NO.

27 \_\_\_\_\_  
28 CITY STATE ZIP CODE

29 (6) I ASSUMED INFORMAL KINSHIP CARE OF THIS CHILD FOR 24 HOURS  
30 A DAY AND 7 DAYS A WEEK ON \_\_\_\_\_ (DAY/MONTH/YEAR).

1 (7) THE NAME AND ADDRESS OF THE SCHOOL THAT THE CHILD  
2 ATTENDS IS:

3 \_\_\_\_\_  
4 \_\_\_\_\_

5 (8) I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE  
6 CONTENTS OF THE FOREGOING ARE TRUE TO THE BEST OF MY KNOWLEDGE,  
7 INFORMATION, AND BELIEF.

8 \_\_\_\_\_

9 SIGNATURE OF AFFIANT

10 \_\_\_\_\_

11 (DAY/MONTH/YEAR)

12 (E) AFFIDAVIT FORMS THAT COMPLY WITH SUBSECTION (D) OF THIS SECTION  
13 SHALL BE MADE AVAILABLE FREE OF CHARGE AT THE OFFICES OF EACH COUNTY  
14 BOARD OF EDUCATION AND EACH LOCAL HEALTH DEPARTMENT.

15 (F) IF A CHANGE OCCURS IN THE CARE OR IN THE SERIOUS FAMILY  
16 HARDSHIP OF THE CHILD, THE RELATIVE PROVIDING INFORMAL KINSHIP CARE  
17 SHALL NOTIFY THE LOCAL DEPARTMENT OF SOCIAL SERVICES IN WRITING WITHIN  
18 30 DAYS AFTER THE CHANGE OCCURS.

19 (G) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE SHALL FILE AN  
20 AFFIDAVIT ANNUALLY WITH THE LOCAL DEPARTMENT OF SOCIAL SERVICES FOR  
21 EACH YEAR THE CHILD CONTINUES TO LIVE WITH THE RELATIVE BECAUSE OF A  
22 SERIOUS FAMILY HARDSHIP.

23 (H) A COPY OF THE AFFIDAVIT SHALL BE GIVEN TO THE HEALTH CARE  
24 PROVIDER THAT TREATS THE CHILD.

25 (I) THE RELATIVE PROVIDING INFORMAL KINSHIP CARE MAY APPLY ON  
26 BEHALF OF THE CHILD FOR ALL MEDICAL AND PUBLIC ASSISTANCE ENTITLEMENTS  
27 FOR WHICH THE CHILD MAY BE ELIGIBLE.

28 (J) THE PARENT OR LEGAL GUARDIAN OF A CHILD SHALL HAVE FINAL  
29 DECISION-MAKING AUTHORITY REGARDING THE HEALTH CARE NEEDS OF THE  
30 CHILD.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2003.